IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.394 OF 2007

Almas Miya Yusuf Ali ...Appellant

vs.

Municipal Corporation for
Greater Mumbai and others ...Respondents

Mr.Virendra T. Dubey for the Appellant
Ms Geeta Jogalekar for Respondents

CORAM: A.S.OKA,J.
DATE : JUNE 4, 2007.

P.C.:

1. Heard Advocates for the parties. The Appellant is the original Plaintiff. The challenge in the suit filed by the Appellant is to the notice under section 55 of the Maharashtra Regional and Town Planning Act,1966. In view of the settled position of law, the suit is not maintainable and therefore, the learned Advocate for the Appellant seeks permission to withdraw the suit with liberty to file appropriate proceeding for challenging the notice under section 55 of the said Act of 1966. He seeks a limited protection to enable him to take appropriate steps.

2. Hence, I pass the following order :

i) L.C.Suit No.1675 of 2007 is dismissed as withdrawn with liberty to the Appellant to take out appropriate

proceeding for challenging the notice under section 55 of the said Act of 1966.

ii) The learned Trial Judge will pass a formal order in the suit in terms of this order.

iii) In view of what is stated aforestated, this Appeal does not survive and the same is disposed of.

iv) For a period of four weeks from today, both the parties will maintain status quo as of today in all respects in respect of the suit structure subject matter of the suit notice dated 16th April 2007.

v) A limited protection is granted to the Appellant only with the view to enable him to take out appropriate proceeding.

vi) All contentions of the parties on merits are expressly kept open.

vii) Parties to act upon an authenticated copy of this order.

JUDGE